

Calendar No. 403

106TH CONGRESS }
1st Session

SENATE

{ REPORT
106-216

OFFICE OF GOVERNMENT ETHICS
AUTHORIZATION ACT OF 1999

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1503

TO AMEND THE ETHICS IN GOVERNMENT ACT OF 1978 (5 U.S.C.
APP.) TO EXTEND THE AUTHORIZATION OF APPROPRIATIONS
FOR THE OFFICE OF GOVERNMENT ETHICS THROUGH FISCAL
YEAR 2003



NOVEMBER 5, 1999.—Ordered to be printed

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WASHINGTON : 1999

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OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 1999

NOVEMBER 5, 1999.—Ordered to be printed

Mr. THOMPSON, from the Committee on Governmental Affairs,
submitted the following

REPORT

[To accompany S. 1503]

The Committee on Governmental Affairs, to which was referred the bill (S. 1503) to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2003, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. SUMMARY AND PURPOSE

The purpose of S. 1503 is to ensure an effective ethics program throughout the Executive Branch, by extending the Office of Government Ethics authorization for four years.

II. BACKGROUND

A. CREATION OF THE OFFICE OF GOVERNMENT ETHICS

The Office of Government Ethics (OGE) was created by Title IV of the Ethics in Government Act of 1978 (Ethics Act). In response

to a 1976 General Accounting Office report to Congress identifying a number of problems with the federal government's ethics system, President Carter submitted draft legislation in 1977 proposing the creation of OGE. Later in 1977, the Senate Committee on Governmental Affairs reported S. 555, the Public Officials Integrity Act. The basic concepts of S. 555 were incorporated into the Ethics Act, which was signed into law on October 26, 1978, as P.L. 95-521.

The Ethics Act created OGE within the Office of Personnel Management (OPM) to provide "overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency." OGE was originally authorized for five years, through September 30, 1983.

B. 1983, 1988 AND 1996 REAUTHORIZATIONS

OGE was reauthorized for another five years in 1983 pursuant to S. 461, which was signed into law as P.L. 98-150. S. 461 was reported by the Senate Governmental Affairs Committee, passed by the Senate, and amended by the House Committee on Post Office and Civil Service. As enacted, the law extended OGE's authorization through September 20, 1988 and clarified the agency's authority and independence. Specifically, the 1983 reauthorization:

- Established a five year term for the OGE Director;

- Gave OGE greater independence from OPM, allowing OGE to operate "in consultation with" rather than "under the general supervision of" OPM;

- Required a separate budget line for OGE;

- Permitted the OGE Director to request assistance from the Inspector General of an agency in conducting investigations involving financial disclosures; and

- Required OGE to review the financial disclosure reports of high-level White House aides.

OGE was again reauthorized in 1988, this time for six years through September 30, 1994. S. 2344, as reported by the Senate Governmental Affairs Committee, made a number of important changes in OGE's structure, including establishing OGE as a separate agency independent of OPM. In addition, the 1988 reauthorization, enacted as P.L. 100-598:

- Upgraded the Director's position from Level V to Level III of the Executive Schedule;

- Clarified the Director's authority to recommend and order "corrective action" on the part of other agencies; and

- Expanded the Director's authority to request Inspector General assistance to include any investigation pursuant to the agency's statutory responsibilities.

During the period of 1988 to 1994, the executive branch ethics program and OGE's responsibilities increased as a result adoption of the Ethics Reform Act of 1989 (P.L. 101-194), which included extensive ethics reform provisions, and two Executive Orders. Executive Order 12674 (April 12, 1989) required the promulgation of comprehensive Standards of Ethical Conduct for Executive Branch Employees and Executive Order 12834 (January 20, 1993) created new post employment rules for political appointees.

After a two-year lapse of authorization, OGE was again reauthorized in 1996. P.L. 104-179 reauthorized OGE for three years

through September 20, 1999. This three year time span was selected in order to accommodate OGE's concerns that a reauthorization process not occur during the first or fourth years of Presidential term when its resources are significantly devoted to matters arising from election and transition activities. In this legislation, OGE was provided with gift acceptance authority. Federal departments and agencies are not permitted to accept gifts unless they have specific statutory authority to do so. This authority allowed OGE to accept gifts in furtherance of its education and training programs and allowed OGE to accept donated non-federal facilities offered for OGE's use by state and local governments and universities.

C. DEVELOPMENTS SINCE OGE'S LAST REAUTHORIZATION

Since OGE's reauthorization in 1996, no dramatic changes in the executive branch ethics program and laws have taken place.

Two years ago, in order to improve its program capabilities, OGE reorganized its Office of Education and created a new Office of Agency Program with three separate divisions—Education and Program Services, Financial Disclosure, and Program Review. This reorganization allowed OGE to commit more resources to its education and training functions. OGE now provides more direct services to agencies through its desk officer program which acts as an ethics liaison to the department and agencies. Also, OGE developed employee training materials, including pamphlets and videos used by agencies in their ethics training. OGE has further designed new courses for the education of agency ethics officials including those located outside the Washington, D.C. area.

Over the past three years, OGE has developed a web site providing information to the ethics program community, employees and the public. In addition, OGE has developed a CD-ROM containing all of the basic resource and reference material important to carrying out its programs, and has developed software used in the completion of the confidential financial disclosure forms filed by over 250,000 employees in the executive branch. OGE is in the process of developing the software necessary for the completion of public financial disclosure reports as well.

OGE has continued to devote a substantial amount of its resources to its core programs. OGE continues to review and certify the financial disclosure forms filed by Presidential nominees requiring Senate confirmation and to serve as the primary authority on conduct and financial disclosure issues. During the three-year period since its last authorization, OGE handled 724 nominee forms and approximately 3,000 annual and termination reports. In addition, OGE continued to provide interpretive guidance of the criminal conflict of interest statutes and to review and update its regulations for the Standards of Ethical Conduct.

D. OGE'S BUDGET AND STAFFING

Since OGE's last reauthorization in 1996, its budget and staffing levels are as follows:

Fiscal year	Funding	Authorized staff levels
1997	\$8,078,000	87
1998	8,265,000	84
1999	8,492,000	84
2000	9,114,000	84

III. LEGISLATIVE HISTORY

S. 1503 was introduced by Senator Thompson, for himself, and Senator Lieberman on August 5, 1999 and referred to the Senate Committee on Governmental Affairs. No hearings were held on the legislation.

S. 1503 was considered by the Governmental Affairs Committee at its November 3, 1999 business meeting and was ordered favorably reported, without amendment, by voice vote. Senators voting and present were: Collins, Voinovich, Cochran, Lieberman, Levin, Akaka, Durbin, Cleland, Edwards and Thompson.

IV. SECTION-BY-SECTION ANALYSIS

Section 1 designates the short title of the bill.

Section 2 extends the authorization of appropriations through fiscal year 2003.

Section 3 provides an effective date of October 1, 1999.

V. REGULATORY IMPACT STATEMENT

S. 1503 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local or tribal governments.

VI. CONGRESSIONAL BUDGET COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 3, 1999.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC 20510

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1503, the Office of Government Ethics Authorization Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, *Director*).

Enclosure.

S. 1503—Office of Government Ethics Authorization Act of 1999

Summary: S. 1503 would reauthorize the Office of Government Ethics (OGE) for fiscal years 2000 through 2003. Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1503 would result in additional discretionary spending of \$29 million over the 2001–2004 period (Public Law 106–58 ap-

appropriated \$9.1 million to the OGE for fiscal year 2000.) This estimate assumes an adjustment for anticipated inflation in 2002 and 2003. Without such an adjustment, we estimate additional spending would total \$27 million over the 2001–2004 period. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 1503 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary impact of S. 1503 is shown in the following table. For the purposes of this estimate, CBO assumes that the amounts necessary will be appropriated by the start of each fiscal year and that outlays will follow the historical spending pattern of the OGE. The costs of this legislation fall within budget function 800 (general government).

Pay-as-you-go considerations: None.

	By fiscal year, in millions of dollars—				
	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION					
OGE Spending under current law:					
Budget Authority ¹	9	0	0	0	0
Estimated Outlays	9	1	0	0	0
Proposed changes:					
Estimated Authorization Level	0	9	10	10	0
Estimated Outlays	0	8	10	10	1
OGE Spending under S. 1503:					
Estimated Authorization Level ¹	9	9	10	10	0
Estimated Outlays	9	9	10	10	1

¹ The 2000 level is the amount appropriated for that year.

Intergovernmental and private sector impact: S. 1503 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On October 13, 1999, CBO prepared a cost estimate for H.R. 2904, a bill to amend the Ethics in Government Act of 1978 to reauthorize funding for the Office of Government Ethics, and to expand the definition of a “special government employee” under title 18, United States Code, as ordered reported by the House Committee on Government Reform on September 30, 1999. H.R. 2904 is similar to S. 1503, and the two estimates of costs are identical.

Estimate prepared by: John R. Righter.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1503 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

TITLE 5—APPENDIX

ETHICS IN GOVERNMENT ACT OF 1978

TITLE IV. OFFICE OF GOVERNMENT ETHICS

§ 405. Authorization of Appropriations

There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years [1997 through 1999].

§ 406. Authorization of Appropriations

* * * * *

* * * *—2000 through 2003.*